

REMARKS

Applicants respectfully request further examination and reconsideration in view of the amended claims and the arguments set forth fully below. In the Office Action mailed May 11, 2009, claims 1-39 have been rejected. In response, the Applicants have amended claim 18, and have submitted the following remarks. Favorable reconsideration is respectfully requested in view of the amended claims and the remarks set forth fully below.

Rejections Under 35 U.S.C. §112

Claims 18-39 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, it is stated within the Office Action that claim 18 recites "the hospital information system...", and that there is insufficient antecedent basis for this limitation. Accordingly, the Applicants have amended this claim to remedy this issue, and respectfully request that the Examiner withdraw his rejection under 35 U.S.C. §112, second paragraph, of claims 18-39.

Rejections Under 35 U.S.C. §103

Claims 1-39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,122,664 to Boukobza et al. (hereinafter Boukobza), in view of U.S. Pre-grant Pub. No. 2003/0023459 to Shipon (hereinafter Shipon). The Applicants respectfully disagree with this rejection.

The Boukobza reference teaches a process for monitoring a plurality of object types of a plurality of nodes. In the "Response to Arguments" section of the Office Action, the Examiner highlights the holding that "It would seem scarcely necessary to point out that merely making a two-piece handle and one piece is not a patentable invention because it is an obvious thing to do if deemed desirable" (In re Wolfe). The Examiner submits that the use of one agent to perform the same function as multiple agents is not a patentable invention, relying upon this Wolfe holding. The Examiner presents this Wolfe quotation out of context, not including any other facts of the Wolfe case. The Applicants safely assume that the two-

piece and one-piece handles of the Wolfe case likely serve the same function and solve the same problem, while having very little structural difference in its makeup. The Applicants respectfully submit that merely citing the Wolfe case is a simplistic method of rebutting the Applicants' arguments.

The Applicants respectfully submit that the difference between the Wolfe case and that of the present application, is that the single proactive notification agent of the present application is structurally and functionally different than those agents found in the Boukobza reference. As stated in the previous Office Action response, the proactive notification agent of the present application is a single agent included in the customer healthcare information system that is capable of monitoring a plurality of object types of a plurality of nodes [Abstract]. This coactive notification agent is diverse enough to interface with a plurality of specific modules specific to the different object types or to a particular domain, each specific module measuring static and dynamic parameters particular to the object type monitors and collecting said measurements, testing conditions on said parameters relative to predefined thresholds and possibly triggering actions associated with said tested conditions [Abstract]. Therefore, while the Boukobza reference includes agents configured in each of the nodes for communicating with a management node specifically for that node, the system and method of the present application includes a single proactive notification agent in the healthcare information system, that is capable of communicating with all nodes, regardless of object type. This difference includes a significant structural design, as well as a functional departure from the Boukobza reference. Regardless of whether either Boukobza or Shipon teach a healthcare information system, this difference in structure and function clearly illustrates that neither of the cited prior art references teaches nor makes obvious the system and method of the present application.

In Boukobza, autonomous agents (SAA) are installed in each node ($N_1, N_2 \dots N_n$), and each of these agents installed in each of the nodes of the Boukobza reference are configured to monitor its assigned node, processes the object types or domains in each of these nodes locally, or feeds back the information collected in each of these nodes to a graphical interface of a management node (MN) [Boukobza, Abstract]. As follows in Boukobza, each node is

specific to each object type of that particular node, and therefore requires an autonomous agent. What needs to be recognized in this description, and further in the specification of Boukobza, is that the Boukobza reference requires an agent to monitor each node of the system. One single agent cannot monitor a number of different objects in the nodes or a domain in each of the nodes, but rather a single agent is needed for each particular node.

Contrasting once again the differences in the present application, a healthcare information system includes capabilities to store patient data, as well as storing information of clinical procedures, billing, and medical insurance. In other words, healthcare information systems are capable of receiving and managing information from a number of different "nodes", as likened to the Boukobza reference. However, the system and method of the present application utilizes a single proactive notification agent 148 (Figure 1) to manage the information as described and claimed in the present application. In other words, the system and method of the present application does not require a number of agents corresponding to each of the different "nodes" of the system and method of the present application, i.e., patient data, clinical procedures, billing, medical insurance. Instead, the agent in the system and method of the present application is configured in the healthcare information system 140, and is able to monitor all "nodes" of this healthcare information system. This is not the case in Boukobza, and as such, this reference requires multiple monitoring agents for each of the nodes in its system. Accordingly, Boukobza does not teach the polling step, nor the monitoring step of the independent claim 1, nor these corresponding elements in the independent claim 18. Furthermore, by amending the final element in the independent claim 1, the Applicant further submits that Boukobza does not teach the notifying step when the value of one of the plurality of counters exceeds one of the thresholds.

Lastly, within the Office Action it is stated that Boukobza does not teach a healthcare information system. The Office Action relies on the Shipon reference to teach this element, but this assessment of the Shipon reference is inaccurate. Regardless of whether either reference teaches an HIS, the differences cited above illustrate that this combination of references does not teach nor make obvious the system and method of the present application.

Claim 1 is directed to a method for proactively monitoring a healthcare information system, the method comprising configuring a memory device in the healthcare information system, the memory device including a set of executable code; and executing the set of executable code with a processor configured in the healthcare information system, such that when the code is executed, the following steps are performed with a proactive notification agent in the healthcare information system: polling a set of data from the healthcare information system; transforming the set of data into a plurality of counters; monitoring one or more performance parameters of the healthcare information system by recording the values of the parameters by one of the plurality of counters; comparing the value of the counters to thresholds; and notifying a designated representative when the value of one of the plurality of counters exceeds one of the thresholds. As discussed above, neither Boukobza, Shipon, nor their combination teach pulling a set of data from a healthcare information system with a single agent, nor transforming the set of data into a plurality of counters in the HIS. For at least these reasons, the independent claim 1 is allowable over the teachings of Boukobza, Shipon and their combination.

Claim 18 is directed to a system for proactively monitoring a healthcare information system, the system comprising: a memory device configured in the healthcare information system, the memory device including a set of executable code; a processor configured in the healthcare information system configured to execute the code, thereby effectuating the function of the following modules: a notification agent, wherein the notification agent polls a set of data from the healthcare information system; and a plurality of counters, each of which capable of monitoring one of a multiplicity of performance parameters by recording the values of the one parameter, wherein the plurality of counters are produced when the agent transforms the set of data, wherein the agent is further capable of notifying a designated representative when the value of one of said plurality of counters exceeds a threshold. As discussed above with respect to the independent claim 1, neither Boukobza, Shipon, nor their combination teach a single notification agent configured to pull a set of data from the hospital information system nor a plurality of counters produced when the agent transforms the set of

Application No. 10/718,781
Amendment Dated August 11, 2009
Reply to Office Action of May 11, 2009

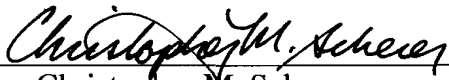
data. Accordingly, the independent claim 18 is allowable over the teachings of Boukobza, Shipon and their combination.

Claims 2-17 and 19-39 are dependent upon the independent claims 1 and 18. As discussed above, the independent claims 1 and 18 are allowable over the teachings of Boukobza, Shipon, and their combination. Accordingly, claims 2-17 and 19-39 are also allowable as being dependent upon an allowable base claim.

For these reasons, Applicants respectfully submit that all of the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at 414-271-7590 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

By 
Christopher M. Scherer
Reg. No. 50,655

Andrus, Sceaux, Starke & Sawall, LLP
100 East Wisconsin Avenue, Suite 1100
Milwaukee, Wisconsin 53202
Telephone: (414) 271-7590
Facsimile: (414) 271-5770